

## Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

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CC:CORP:B06

PLR-124231-10

Date:

August 13, 2010

### LEGEND

Company =

Industry A =

Industry B =

Industry C =

Industry D =

X Family Voting Trust =

Shareholder A =

Shareholder B =

Year 1 =

Year 2 =

Year 3 =

amount a =

amount <u>b</u>	=
amount <u>c</u>	=
amount <u>d%</u>	=
amount <u>e%</u>	=
amount <u>f%</u>	=
amount <u>g%</u>	=
amount <u>h</u>	=
amount <u>i</u>	=
amount <u>j</u>	=
amount <u>k%</u>	=
amount <u>l%</u>	=
amount <u>m%</u>	=
amount <u>n%</u>	=
amount <u>x</u>	=
amount <u>y</u>	=
<u>x</u>	=

Dear \_\_\_\_\_ :

This letter responds to your June 8, 2009 request for rulings on certain federal income tax consequences of a proposed transaction. The information provided in that request and in later correspondence is summarized below.

The rulings contained in this letter are based upon facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process.

### FACTS

The Company is a private holding company with four main subsidiaries operating in the industries of Industry A, industry B, Industry C and Industry D. The Company currently has outstanding two classes of common stock, Class A and Class B shares. The two classes of common stock are identical except that the Class B shares are non voting. As of the date of this request, the company has outstanding amount x Class A shares (owned by the X Family Voting Trust) and amount y Class B shares (owned by various shareholders).

Shareholder A and Shareholder B currently are Class B shareholders of the Company. Neither Shareholder A or Shareholder B was ever active in the daily conduct of the Company's business. Traditionally, Company shareholders have received very little in the form of cash dividends on their stock. As a means of providing liquidity to Shareholder A and Shareholder B and simultaneously allowing the Company to

decrease the number of its inactive shareholders, the Company proposes to repurchase all of the shares directly owned by Shareholder A and Shareholder B (the "Redemption Shares"). Following the repurchase of such shares, both Shareholder A and Shareholder B still will continue to be treated as owning shares of the Company's stock through attribution under Code Section 318(a)(2). Additionally, the Class B shares proposed to be repurchased are not voting shares. Thus, the proposed repurchase would not qualify for sale or exchange treatment under Code Section 302(b)(2) or (b)(3).

If it were practicable, the Company would redeem all of the Redemption Shares in a single transaction. However, the Company does not have sufficient cash flow to allow it to pay the repurchase price in a lump sum. Further, the Company is restricted from issuing a promissory note to the former shareholders under covenants made to its secured lenders. Accordingly, the Company proposes to repurchase one-third of the Redemption Shares from each of Shareholder A and Shareholder B in x separate transactions that are proposed to occur in Year 1, Year 2, and Year 3 (each, a "Redemption" and, collectively, the "Redemptions").

Shareholder A currently owns amount a Class B shares, directly, and amount b additional Class B shares by attribution under Code Section 318, for a total of amount c Class B shares (representing amount d% of the total stock of the company outstanding). Shareholder A would be treated as owning, taking attribution into account, amount e% of the stock of the Company following the Year 1 Redemption, amount f% of the stock of the Company following the Year 2 Redemption, and amount g% of the stock of the Company following the Year 3 Redemption.

Shareholder B currently owns amount h Class B shares, directly, and amount i additional Class B shares by attribution under Code Section 318, for a total of amount j Class B shares (representing amount k% of the total stock of the company outstanding). Shareholder B would be treated as owning, taking attribution into account, amount l% of the stock of the Company following the Year 1 Redemption, amount m% of the stock of the Company following the Year 2 Redemption, and amount n% of the stock of the Company following the Year 3 Redemption.

## REPRESENTATIONS

Company makes the following representations with respect to the Redemptions Shares:

(1a) There are no outstanding options or warrants to purchase Company stock, nor are there any outstanding debentures or other obligations that are convertible into Company stock or would be considered Company stock.

(1b) No notes or other obligations of Company will be distributed to a redeemed shareholder.

(1c) No shareholder of the Company has been or will be obligated to purchase any of the stock to be redeemed.

(1d) None of the stock to be redeemed is “section 306 stock” within the meaning of section 306(c).

(1e) There are no declared but unpaid dividends, or funds set apart for dividends, on any of the stock to be redeemed.

(1f) At the time of the exchange, the fair market value of the consideration to be received by the redeemed shareholders will be approximately equal to the fair market value of the Company’s stock to be exchanged therefor.

(1g) the price to be paid for the Company’s stock to be redeemed will not result in a loss with respect to those shares of stock.

#### RULING

Based solely on the information submitted and the representations set forth above, we rule as follows with respect to the Redemptions of Shareholder A and Shareholder B.

The Redemptions by Company of its Class B common stock held by Shareholder A and Shareholder B, as described above, will qualify as redemptions that are not essentially equivalent to a dividend within the meaning of section 302(b)(1). The distributions in redemption of the stock owned by Shareholder A and Shareholder B will be treated as distributions in full payment in exchange for stock owned by Shareholder A and Shareholder B as provided in section 302(a). See *United States v. Davis*, 397 U.S. 301 (1970); Rev. Rul. 75-512, 1975-2 C.B. 112; Rev. Rul. 77-426, 1977-2 C.B. 87.

#### CAVEATS

The above rulings are effective to the extent that the amount distributed to Shareholder A and Shareholder B represents the fair market value of the Class B common stock redeemed from Shareholder A and Shareholder B.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax treatment of the transactions under other provisions of the Code or the regulations, or the tax treatment of any conditions existing at the time of, or effects resulting from, the transactions that are not specifically covered by the above rulings.

#### PROCEDURAL STATEMENTS

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

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Alfred Bishop  
Branch Chief, Branch 6  
Associate Chief Counsel (Corporate)

cc: